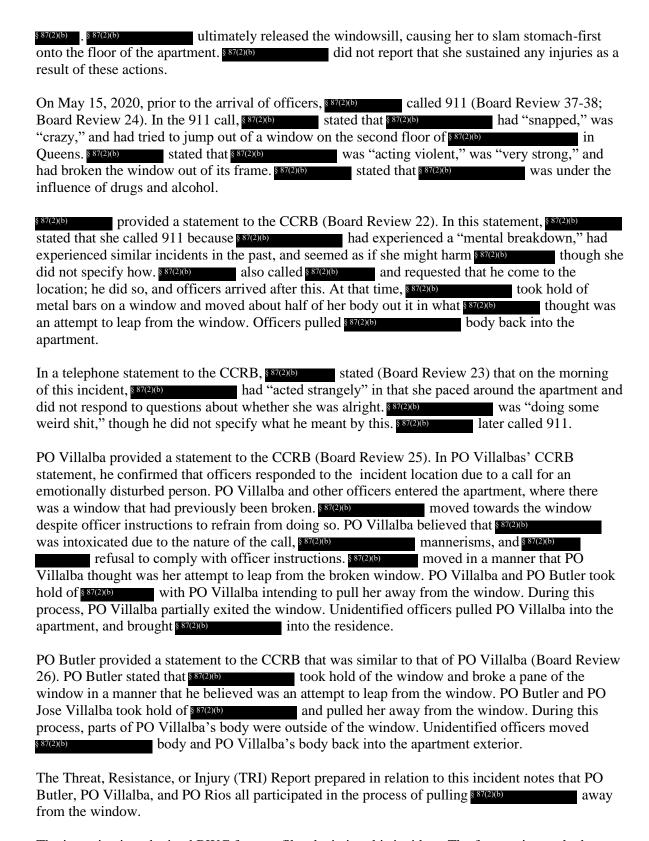
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:	T	eam:	CCRB Case #:	✓ Force	✓ Discourt.	U.S.
Christopher Anderson	Se	quad #12	202003531	☑ Abuse	O.L.	✓ Injury
Incident Date(s)	L	ocation of Incident:	_	Precinct:	18 Mo. SOL	EO SOL
Friday, 05/15/2020 12:00 AM, I 05/15/2020 4:12 PM	rituay,	7(2)(b) 7(2)(b)	En route to	101	11/15/2021	5/4/2022
Date/Time CV Reported	C	V Reported At:	How CV Reported:	Date/Time	Received at CC	RB
Tue, 05/19/2020 2:33 AM	L	AB	Phone	Tue, 05/26	5/2020 9:42 AM	
Complainant/Victim	Туре	Home Addr	ess			
Witness(es)		Home Addr	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. POM Kevin Butler	06563	964411	101 PCT			
2. POM Jose Villalba	22742	953530	101 PCT			
3. SGT Jeffrey Thompson	05178	955577	101 PCT			
4. An officer						
Witness Officer(s)	Shield No	Tax No	Cmd Name			
1. POM Javier Rios	20224	952167	101 PCT			
2. POM Rawle Persad	19414	951047	101 PCT			
3. POM John Backer	04598	956405	101 PCT			
Officer(s)	Allegation			Inve	stigator Recon	nmendation
A.POM Kevin Butler	Force: At St.	7(2)(5) vin Butler used physi	in Queens, l cal force against § 87(2)			
B.POM Jose Villalba	Force: At Officer Jose		in Queens, I cal force against \$87(2)			
C. An officer	Force: At officer used	7(2)(b) l physical force agair	in Queens, a	an		
D.POM Kevin Butler	against § 87(2))(b)	ler used physical for	ce		
E. An officer	Force: At § 8 officer hit	87(2)(b) aga	in Queens, a			
F. An officer	Force: At officer restr	icted § 87(2)	oreaming.	nn e		
G.SGT Jeffrey Thompson		87(2)(6) ffrey Thompson forc he hospital.	in Queens, ibly removed § 87(2)(b)			

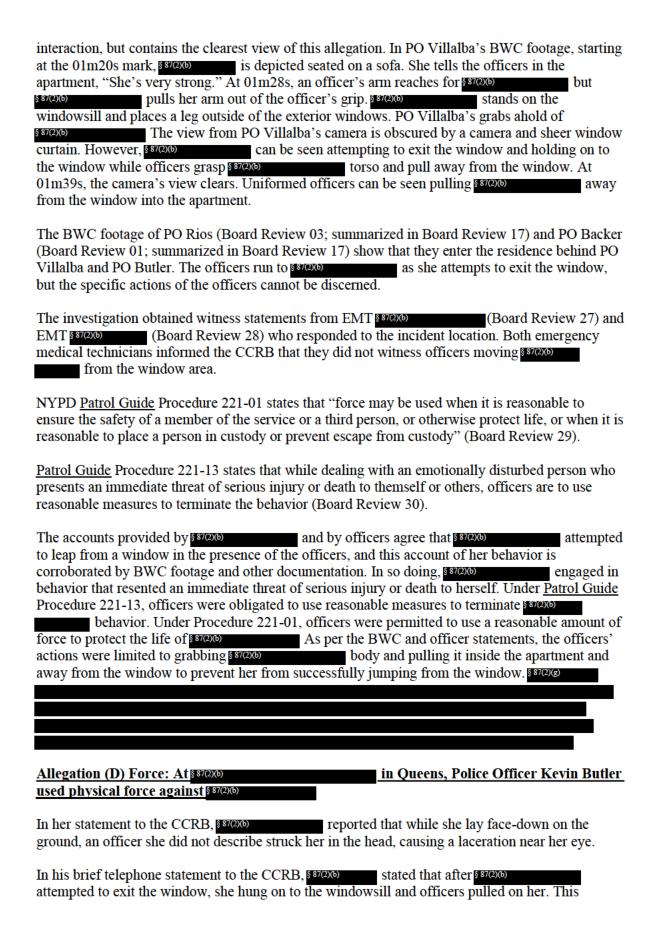
Investigator Recommendation
in Butler spoke discourteously to

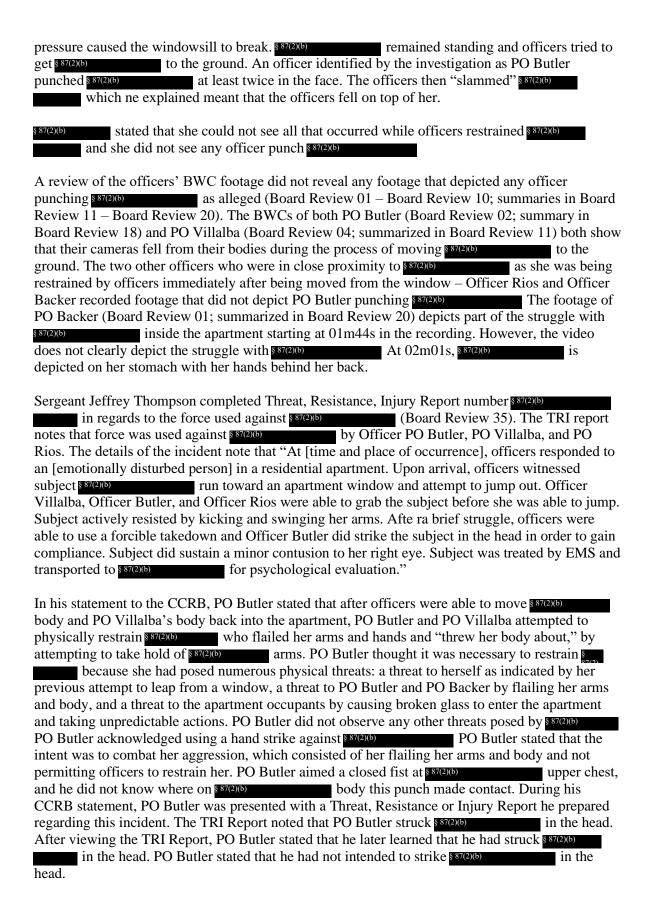
Case Summary

On May 19, 2020, \$87(2)(b) called the Internal Affairs Bureau to file this complaint on behalf of was a non-witnessing complainant. The CCRB received the complaint from IAB on May 26, 2020.
On May 15, 2020, at approximately 4:12 p.m., \$\frac{87(2)(6)}{2}\$ was "acting violent." Multiple officers, including PO Kevin Butler, PO Jose Villalba, PO Javier Rios, PO Rawle Persad, PO John Backer, and Sgt. Jeffrey Thompson, all of the 101st Precinct, responded to the call at \$\frac{87(2)(6)}{2}\$ in Queens. After \$\frac{87(2)(6)}{2}\$ son, \$\frac{87(2)(6)}{2}\$ let officers into the apartment, PO Butler, PO Villalba, and PO Rios used physical force to prevent \$\frac{87(2)(6)}{2}\$ from jumping out of her second-story window (Allegations A: Force, \$\frac{87(2)(6)}{2}\$ (Allegations B: Force, \$\frac{87(2)(6)}{2}\$ in the head (Allegation D: Force, \$\frac{87(2)(6)}{2}\$ An unidentified officer slammed \$\frac{87(2)(6)}{2}\$ head into the ground (Allegation E: Force, \$\frac{87(2)(6)}{2}\$ and restricted her breathing (Allegation F: Force, \$\frac{87(2)(6)}{2}\$ was forcibly removed to \$\frac{87(2)(6)}{2}\$ in Queens (Allegation G: Abuse of Authority, \$\frac{87(2)(6)}{2}\$
While en route to \$87(2)(b) (Allegation H: Discourtesy, \$87(2)(g)
was not arrested or issued a summons as a result of this incident.
Body-Worn Camera (BWC) footage recorded by officers was provided to the CCRB by the NYPD's Legal Bureau (Board Review 01 through 10), and the footage was summarized (Board Review 11 through 20).
Findings and Recommendations
Allegation (A) Force: At \$87(2)(b) in Queens, Police Officer Kevin Butler
used physical force against \$87(2)(b) Allegation (B) Force: At \$87(2)(b) in Queens, Police Officer Jose Villalba
used physical force against 887(2)(b) Allegation (C) Force: At 887(2)(b) in Queens, officers used physical force
<u>against</u> § 87(2)(b)
It is undisputed that on May 15, 2020, at approximately 4:12 p.m., multiple officers responded to a 911 call related to an emotionally disturbed person at growing in Queens and subsequently pulled her body away from a window.
stated to the CCRB (Board Review 21) that, at the time of this incident, she was a visitor at the above location, where \$\frac{87(2)(b)}{2}\$ and \$\frac{87(2)(b)}{2}\$ resided. \$\frac{87(2)(b)}{2}\$ took over-the-counter, non-prescription medication and had an adverse response to it. The medicine caused her to become dazed, "out of it," and not herself. \$\frac{87(2)(b)}{2}\$ called 911, and multiple officers came to the residence. \$\frac{87(2)(b)}{2}\$ thought that she recognized some officers from a previous encounter. She stated that she chose to open a window in the apartment and leap from it. She heard one officer say that they had dealt with her in the past and that she was strong. Officers she could not describe took hold of \$\frac{87(2)(b)}{2}\$ body and attempted to pull her back into the interior of the apartment. \$\frac{87(2)(b)}{2}\$ held on to the windowsill with both hands to prevent the officers from pulling her into the apartment. The officers continued to pull \$\frac{87(2)(b)}{2}\$



The investigation obtained BWC footage files depicting this incident. The footage is attached to Board Review 01 – Board Review 10; summaries in Board Review 11 – Board Review 20. The BWC footage of PO Villalba (Board Review 04; Board Review 11) only partly depicts the





Because PO Butler affirmed that he struck \$\frac{87(2)(b)}{2}\$ with a closed fist, because the TRI report notes that PO Butler struck \$\frac{87(2)(b)}{2}\$ in the head in the head, and because this evidence largely corroborates the testimony of \$\frac{87(2)(b)}{2}\$ in the head at least once.

As noted above under Allegations A-C, <u>Patrol Guide</u> Procedure 221-01 governs the use of force and notes that when officers use officers use force, their force must be reasonable. The procedure provides the following factors in assessing reasonableness:

- a) The nature and severity of the crime / circumstances
- b) Actions taken by the subject
- c) Duration of the action
- d) Immediacy of the perceived threat or harm to the subject, members of the service, and / or bystanders
- e) Whether the subject is actively resisting custody
- f) Whether the subject is attempting to evade arrest by flight
- g) Number of subjects in comparison to the number of MOS
- h) Size, age, and condition of subject in comparison to the MOS

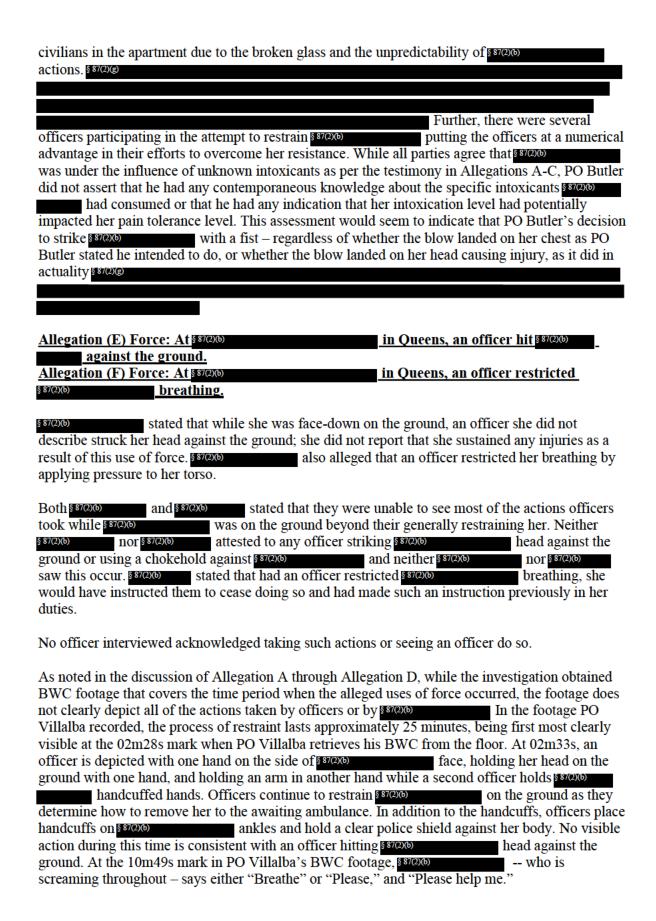
While the investigation concluded that PO Butler struck \$87(2)(6)

- i) Subject's violent history, if known
- j) Presence of hostile crowd or agitators
- k) Subject apparently under the influence of a stimulant / narcotic which would affect pain tolerance or increase the likelihood of violence

in the head, there were

determine what, if anything, \$87(2)(b) was doing at the time PO Butler used force against her. \$87(2)(b) reported that she was face-down on the ground at the time force was used, while \$87(2)(b) reported that she was standing up and refusing officers' attempts to get her on the ground. \$87(2)(b) the second witness, did not report that she observed this use of force. PO Butler stated that at the time he struck \$87(2)(b) he did so because she was flailing her arms and body and not permitting officers to restrain her. Additionally, the investigation could not
confirm PO Butler's assertion that he intended to strike \$87(2)(6) upper chest in the absence of BWC footage.
§ 87(2)(g)
All parties agree that the officers were called to the location because was experiencing a mental health crisis. No one provided testimony that satisfies the police were at the residence to render aid and to assist in her transport to a hospital for psychiatric evaluation. This would seem to preclude that officers should subject satisfies to a significant amount of force unless absolutely necessary to prevent her from injuring herself or otherwise accomplish the goal of obtaining the requested medical attention.

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§ 87(2)(g)
Allegation (G) Abuse of Authority: At \$870,00 in Queens, Sergeant Jeffrey Thompson forcibly removed to the hospital.
It is undisputed that officers participated in the process of having § \$7(2)(6) removed to a hospital.
As noted in the discussion of Allegation A through Allegation C, prior to the arrival of officers, called 911 and reported that \$87000 had tried to jump out of a window at the residence. As further discussed, upon the arrival of the officers, \$87000 attempted to leap from the window.
Emergency Medical Technician stated that when he arrived, he witnessed behavior and considered her to be experiencing "excited delirium."
<u>Patrol Guide</u> Procedure 221-13 states that an emotionally disturbed person is someone who appears to be conducting themselves in a manner that an officer could reasonably believe to present a danger to themselves or others. When an emotionally disturbed person has been restrained, officers are to have the emotionally disturbed person removed to a hospital.
§ 87(2)(g)
Allegation (H) Discourtesy: En route to \$870,00 in Queens, Police Officer Kevin Butler spoke discourteously to \$870,00
In PO Butler's second BWC file (Board Review 09; summarized in Board Review 15), PO Butler is depicted in an ambulance with SECOND Emergency Medical Technicians SECOND
and an unidentified officer who is not depicted. At 01m20s in the recording, PO Butler has a conversation with another officer in which they discuss the places where they are seated. At 01m24s, PO Butler says, "I realized that after I fucking sat down."
PO Butler was re-interviewed by the CCRB in connection with his use of profanity. PO Butler initially stated that he did not recall that he used profanity during [\$5000] transport to the hospital. However, after watching a recording of his BWC footage, he affirmed that he made the above statement. He stated that this was "not the best choice of words" and that profanity "came out" because "tensions were high" and he had just dealt with a stressful situation involving preventing [\$5000] from leaping out of a window.
NYPD <u>Patrol Guide</u> Procedure 200-02, entitled "Mission, Vision, and Values of the New York Police Department," is the first procedure included in the <u>Patrol Guide</u> (Board Review 39). Procedure 200-02 notes that officers must pledge to "respect the dignity of each individual and render our services with courtesy and civility."

<u>DAO-DCT</u> case number 2017-17005 (Board Review 40) states that in prior disciplinary cases, the NYPD has held that the use of profane remarks during stressful situations or while an officer is trying to get a chaotic situation under control does not constitute misconduct. However, the courts noted that the extension of this exception to the rule must be circumscribed to prevent the exception from swallowing the rule. The ruling went on to note that to qualify for an exception, the situation must be "so chaotic that the duty of courteous and professional behavior should be overridden by the immediate need to maintain order."

§ 87(2)(6) with § 87(2)(6)	had largely subside had concluded	ent was stressful, the stressful na d by the time PO Butler used pro some time before, and \$87(2)(6) ted any movement. \$87(2)(6)	
	the first CCRB compla the first CCRB compla		n a party (Board Review 31). nas been a party (Board
• As of A of Clair	se was not suitable for april 2, 2021, the New	tion, Civil and Criminal Histor mediation. York City Office of the Comptro g this incident (Board Review 33)	oller has no record of a Notice
Squad No.:	12		
Investigator: _	Chris Anderson Signature	SI Chris Anderson Print Title & Name	03/16/2022 Date
Squad Leader: _	Carlmais Johnson Signature	IM Carlmais Johnson Print Title & Name	March 17, 2022 Date
Reviewer:	Signature	Print Title & Name	Date